

*Status: Point in time view as at 22/07/2004.*

*Changes to legislation: There are currently no known outstanding effects for the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995, Paragraph 15. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 3

#### TRANSITIONAL PROVISIONS, TRANSITORY MODIFICATIONS AND SAVINGS

#### PART II

##### SPECIFIC PROVISIONS

##### *Confiscation of proceeds of crime, etc.*

- 15 (1) Where a person is charged with an offence in relation to which provision is made by Part I of the <sup>M1</sup>Proceeds of Crime (Scotland) Act 1995, being an offence committed before the coming into force of Chapter I of Part II of the Criminal Justice (Scotland) Act 1995, Part I of the said Proceeds of Crime (Scotland) Act shall not affect the powers of the court in the event of his being convicted of the offence.
- (2) Where a person is charged with an offence committed before the coming into force of Part II of the Proceeds of Crime (Scotland) Act 1995, in the event of his being convicted of the offence, the court shall be entitled to exercise the powers conferred by section 223 or section 436 of the <sup>M2</sup>Criminal Procedure (Scotland) Act 1975, but not the powers conferred by that Part.
- (3) Paragraph (b) of section 2(4) of the Proceeds of Crime (Scotland) Act 1995 shall not apply in the case of an offence committed before the coming into force of Chapter I of Part II of the Criminal Justice (Scotland) Act 1995.
- (4) In any case in which, notwithstanding the coming into force of the <sup>M3</sup>Bankruptcy (Scotland) Act 1985, the <sup>M4</sup>Bankruptcy (Scotland) Act 1913 applies to a sequestration, paragraph 1(2) of Schedule 2 to the <sup>M5</sup>Proceeds of Crime (Scotland) Act 1995 shall have effect as if for sub-sub-paragraphs (a) and (b) thereof there were substituted the following paragraphs—
- “(a) property comprised in the whole property of the debtor which vests in the trustee under section 97 of the Bankruptcy (Scotland) Act 1913,
  - (b) any income of the bankrupt which has been ordered, under subsection (2) of section 98 of that Act, to be paid to the trustee or any estate which, under subsection (1) of that section, vests in the trustee,”
- and paragraph 1(3) of that Schedule shall have effect as if, for the reference in it to the said Act of 1985, there were substituted a reference to the said Act of 1913.
- (5) In any case in which a petition in bankruptcy was presented, or a receiving order or adjudication in bankruptcy was made, before 29 December 1986 (the date on which the <sup>M6</sup>Insolvency Act 1986 came into force), paragraph 2(2) to (5) of Schedule 2

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to the Proceeds of Crime (Scotland) Act 1995 shall have effect with the following modifications—

- (a) for references to the bankrupt's estate for the purposes of Part IX of the said Act of 1986 there are substituted references to the property of the bankrupt for the purposes of the <sup>M7</sup>Bankruptcy Act 1914;
  - (b) for references to the said Act of 1986 and to sections 280(2)(c), 286, 339, and 423 of that Act there are respectively substituted references to the said Act of 1914 and to sections 26(2), 8, 27 and 42 of that Act;
  - (c) the references in subsection (4) to an interim receiver appointed as there mentioned include, where a receiving order has been made, a reference to the receiver constituted by virtue of section 7 of the said Act of 1914, and
  - (d) subsection (2)(b) is omitted.
- (6) In any case in which a winding up of a company commenced, or is treated as having commenced, before 29 December 1986, paragraph 3(2) to (6) of the said Schedule 2 shall have effect with the substitution for references to the said Act of 1986 of references to the <sup>M8</sup>Companies Act 1985.
- (7) In any case in which a receiver was appointed as is mentioned in sub-paragraph (1) of paragraph 4 of the said Schedule 2 before 29 December 1986, sub-paragraphs (2) to (4) of that paragraph have effect with the substitution for references to the said Act of 1986 of references to the Companies Act 1985.

#### **Marginal Citations**

<b>M1</b>	1995 c. 43.
<b>M2</b>	1975 c.21.
<b>M3</b>	1985 c. 66.
<b>M4</b>	1913 c. 20.
<b>M5</b>	1995 c. 43.
<b>M6</b>	1986 c. 45.
<b>M7</b>	1914 c.59.
<b>M8</b>	1985 c. 6.

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